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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/410,592	10/01/99	BROWN	L 6664MR

EXAMINER	
RUDDOCK, U	
ART UNIT	**PAPER NUMBER**
1771	5

DATE MAILED: 10/03/01

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Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.	Applicant(s)
09/410,592	Brown et al.
Examiner	**Art Unit**
Ula C. Ruddock	1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on Oct 1, 1999

2a) ☐ This action is **FINAL.** 2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) 1-35 is/are pending in the applica

4a) Of the above, claim(s) 18-35 is/are withdrawn from considera

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) 1-17 is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claims _____ are subject to restriction and/or election requirem

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.

12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a) ☐ All b) ☐ Some* c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

14) ☒ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

15) ☒ Notice of References Cited (PTO-892)

16) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)

17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 5

18) ☐ Interview Summary (PTO-413) Paper No(s). _____

19) ☐ Notice of Informal Patent Application (PTO-152)

20) ☐ Other:

DETAILED ACTION

Election/Restriction

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

   I. Claims 1-17, drawn to an article of manufacture, classified in class 442, subclass 409.

   II. Claims 18-35, drawn to a method of promoting a sale, classified in class 705, subclass various.

2. The inventions are distinct, each from the other because of the following reasons: Inventions I and II are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case, a method of promoting a sale of a cleaning sheet is independent from the article of manufacture of Group I.

3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

4. During a telephone conversation with Jason Camp on February 28, 2001, a provisional election was made with traverse to prosecute the invention of Group I, claims 1-17. Affirmation of this election must be made by applicant in replying to this Office action. Claims 18-35 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

5. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(I).

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With regards to claims 1, 6, and 12, it is unclear to the Examiner what is being claimed. Are the package and cleaning sheet being claimed in combination? Or are the package and cleaning sheet being claimed separately?

Furthermore, the scope of claims 1, 5, 6, 10, and 16 is unclear. Is the cleaning sheet more efficient at removing allergens from a surface or is the package simply saying that? Is the limitation regarding "an instruction to remove at least 88% of allergens" a limitation to the sheet, a limitation to the package, or to how the article itself is used?

With regards to claims 6 and 11, a "traditional cleaning device" is disclosed? It is unclear to the Examiner what is meant by traditional?

With regards to claims 12 and 17, it is unclear what is meant by an allergy-related product? Does the product cause or relieve allergies? Clarification/correction is required.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

9. Claims 1, 2, 4-7, 9-13, and 15-17 rejected under 35 U.S.C. 103(a) as being unpatentable over Clark et al. (US 4,666,621). Clark et al. disclose a surface wiping article. The wiping article is a nonwoven spunlaced material (col 3, ln 28-31). The wipes should be packaged in a manner which will maintain them in a moist condition (col 7, ln 32-38). With regards to claims 1, 6, and 12, section b, it has been held that the recitation that an element is "capable of" performing a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. *In re Hutchison*, 69 USPQ 138.

Clark et al. fail to specifically teach information and instructions on the package and the specifically claimed allergens. It would have been obvious to one having ordinary skill in the art to have put instructions and information on the package of Clark et al. motivated by the desire to create a more user-friendly and convenient product. It also would have been obvious to one

having ordinary skill in the art to select the specific allergens as claimed in claims 4, 9, and 15, since these allergens are commonly known and furthermore, the wipe of Clark et al. would remove dust allergens.

10. Claims 3, 8, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clark et al. (US 4,666,621), as set forth above, in view of Henry (US 4,064,061) and Thrasher (US 5,342,436). Clark et al. disclose the claimed invention but fail to disclose that the sheet comprises an oil or wax additive. Henry teaches a cleaning cloth composition that includes mineral oil and paraffin wax (col 1, ln 50 to col 2, ln 1-2) and Thrasher teaches a composition that comprises paraffin wax dispersed in mineral oil (abstract). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have used either Henry's or Thrasher's composition on Clark et al.'s wiping article motivated by the desire to obtain a wipe that leaves a protective residue on the surface to be cleaned.

Conclusion

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ula C. Ruddock whose telephone number is (703) 305-0066. The Examiner can normally be reached Monday through Thursday from 6:30 AM to 5 PM.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor Terrel Morris can be reached at (703) 308-2414.

Any inquiry of a general nature or relating to the status of this application should be directed to the group receptionist whose telephone number is (703) 308-2351.

Ula C. Ruddock UCR
Patent Examiner
Art Unit 1771
October 1, 2001

TERREL MORRIS
SUPERVISORY PATENT EXAMINER
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